

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.177 of 2005

IN

SUMMARY SUIT NO.101 OF 2005

Surinder Kumar Mansaram Khanna
and others. ...Plaintiffs

VS.

Prithviraj M.Khanna. ...Defendant.

Mr.P.S.Shah, for Plaintiffs.

Mr.Rajiv Narula i/b. J.Narula & Associates, for
Defendant.

CORAM: D.K.DESHMUKH, J.

DATED: 13th April, 2006.

P.C.:-

1. This is a notice of motion taken out by the plaintiffs seeking order of attachment before judgment. The plaintiffs seek an order of attachment before judgment on the allegation that the defendant is attempting to transfer the movable and immovable

properties. The learned Counsel appearing for plaintiffs submits that the defendant is attempting to transfer his properties because the defendant owes various amounts to the plaintiffs and therefore, he is trying to sell the properties. In the reply filed by the defendant, the defendant has stated that he is presently carrying on business styled as "Khanna Brothers" and the turnover of that concern for the year 2002-03 was in excess of Rs.50,00,000/-. The defendant relies on the balancesheet for the year ended 31st March,2004. The defendant is relying on the balancesheet to show that he is actually carrying on business and he is a man of substance and therefore, merely because there are claims made against him, he is not likely to dispose of his properties. Though the plaintiffs have filed rejoinder, the plaintiffs have neither sought inspection of the balancesheet on which the defendant has relied on nor have they given any ground as to how the statement made by the defendant, that he is actually carrying on business and his business is going well, should not be accepted.

2. In my opinion, considering the material available on record and also considering that the parties are closely related, it would not be appropriate to grant order of attachment before judgment. The notice of motion is disposed of.

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